

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LOUIE ARCHULETA,

Plaintiff,

v.

No. CIV-06-0708 BB/RHS

STATE OF NEW MEXICO, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Plaintiff's motion for leave to proceed pursuant to 28 U.S.C. § 1915 (Doc. #2) filed August 7, 2006, in this civil rights action. Certain provisions of § 1915 prohibit a prisoner from proceeding in forma pauperis if three or more of the prisoner's prior complaints have been dismissed as frivolous or for failure to state a claim, unless the prisoner is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g). Plaintiff has filed a number of civil actions in this Court, at least three of which were filed while he was incarcerated and were dismissed as frivolous or for failure to state a claim. The case numbers of these actions are CIV-94-0800 M/LFG, CIV-94-1258 M/LFG, and CIV-96-0837 LH/WWD. *See Duhart v. Carlson*, 469 F.2d 471, 473 (10th Cir. 1972) (stating that a court may take judicial notice of its own records). This action thus has been preceded by the requisite number of dismissed actions. The complaint does not allege that Plaintiff is in imminent danger of physical injury. Under the factors specified in § 1915(g), the motion for leave to proceed pursuant to 28 U.S.C. § 1915 will be denied and the filing fee must be paid. *See Pigg v. FBI*, 106 F.3d 1497 (10th Cir. 1997). The Court will not review the allegations

of the complaint or issue summons until the filing fee is paid, and failure to submit the required filing fee may result in dismissal without prejudice without further notice.

IT IS THEREFORE ORDERED that Plaintiff's motion for leave to proceed pursuant to 28 U.S.C. § 1915 (Doc. #2) filed August 7, 2006, is DENIED;

IT IS FURTHER ORDERED that, within 20 days from entry of this order, Plaintiff may submit the required filing fee of \$350.00.



UNITED STATES DISTRICT JUDGE